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July 10, 1995

BY HAND DELIVERY

William F. Caton, Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, D.C. 20554

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JUL 10 1995

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

Re: Television Duopoly Rule Making --  
MM Docket Nos. 91-221, 87-8

Dear Mr. Caton:

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We hand you herewith, on behalf of Northern Television, Inc., an original and four copies of its Reply Comments in the above-referenced proceeding.

Please direct any questions concerning this submission to the undersigned.

Sincerely,

WILKINSON, BARKER, KNAUER & QUINN

By: Kenneth E. Satten



Enclosure

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BEFORE THE  
**Federal Communications Commission**  
WASHINGTON, DC 20554

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**JUL 10 1992**

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

<b>In the Matter of</b>	)	
	)	
<b>Review of the Commission's Regulations</b>	)	<b>MM Docket No. 91-221</b>
<b>Governing Television Broadcasting</b>	)	
	)	
<b>Television Satellite Stations</b>	)	<b>MM Docket No. 87-8</b>
<b>Review of Policy and Rules</b>	)	

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**REPLY COMMENTS OF NORTHERN TELEVISION, INC.**

Northern Television, Inc. ("Northern"), hereby submits its Reply Comments in response to the Further Notice of Proposed Rule Making ("Further Notice") issued by the Commission in the above-captioned proceeding.<sup>1</sup> Northern limits these reply comments to the issue of the possible relaxation of the Commission's prohibition of common ownership of broadcast stations with overlapping Grade B contours (the television duopoly rule).

While not without opposition, the general consensus of the parties submitting initial comments in response to the Further Notice is that the television duopoly rule should be relaxed. Most commenters agree that broadcasters' overall competitiveness in the video marketplace will be promoted with a less restrictive ownership standard.<sup>2</sup> Some note that allowing broadcasters to benefit from the

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<sup>1</sup> Northern is the licensee of KTVA-TV, KBYR(AM) and KNIK(FM) in Anchorage, Alaska and KTVF-TV, KCBF(AM) and KXLR(FM) in Fairbanks, Alaska.

<sup>2</sup> See e.g., Comments of Capital Cities/ABC, Inc., p. 9; Broad Street Television.

(continued...)

economies of scale of common ownership of co-located stations will result in a strengthening of program diversity.<sup>3</sup>

Many commenters advocate permitting UHF/UHF or UHF/VHF combinations,<sup>4</sup> while others urge the Commission to allow any television duopoly — particularly if some other guidelines or criteria are utilized for evaluation such as: number of remaining independently owned stations in the market, audience share or reach, uniqueness of a particular market, potential public interest benefits, financial conditions of a station to be acquired and the competitiveness and diversity characteristics of the market.<sup>5</sup> Some commenters propose use of a case-by-case analysis.<sup>6</sup>

Northern fully supports those commenters who suggest elimination of the duopoly restrictions altogether and who argue in favor of UHF/UHF, UHF/VHF and VHF/VHF combinations. Northern agrees that limiting television duopolies to circumstances where one of the stations is UHF is misplaced. There is no reason to differentiate between UHF and VHF stations with respect to common ownership, as

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<sup>2</sup> (...continued)  
L.P., pp. 8-9; Association of Independent Television Stations, Inc., pp. 2-6.

<sup>3</sup> See Comments of Dispatch Broadcast Group, p. 8; Tribune Broadcasting Company, pp. 32-33; Freedom of Expression Foundation, Inc., pp. 13-14, 17.

<sup>4</sup> See Comments of Golden Orange Broadcasting Co., Inc., pp. 2, 3-6; Louisiana Television Broadcasting Corp., pp. 3-7; Jet Broadcasting Co., Inc., p. 3.

<sup>5</sup> See Comments of Big Horn Communications, Inc., pp. 7-8; Cedar Rapids Television Company, pp. 8-9; Fox Television Stations, Inc., p. 17.

<sup>6</sup> See Comments of Capital Cities/ABC, Inc., pp. 23-24; National Broadcasting Company, Inc., pp. 5, 29-30.

antitrust laws provide sufficient safeguards to assure appropriate dispersal of market power.<sup>7</sup>

Accordingly, Northern submits that the Commission should modify its rules to allow an entity to own a UHF/UHF, UHF/VHF or VHF/VHF combination of television broadcast stations in the same market without any restrictions. In the alternative, Northern believes such combinations should be permitted unless an affirmative finding is made that a particular combination does not serve the public interest. If the Commission determines that it will not permit VHF/VHF ownership (or it will not raise a presumption in favor of such ownership), Northern suggests that, at a minimum, VHF/VHF combinations should be permitted on a case-by-case basis where a showing is made that such combination is in the public interest. There should be no per se prohibition against VHF/VHF combinations.

Northern also believes that, in responding to commenters in this proceeding and in considering elimination or relaxation of the television duopoly rule, the Commission must be careful not to impose regulatory guidelines or criteria that inure to the benefit of large market broadcasters while preventing small market broadcasters from obtaining the benefits of Commission deregulation. Thus, Northern urges the Commission to resist imposing arbitrary criteria or thresholds on any relaxation of the duopoly rule. For example, some commenters would limit relaxed ownership limitations to the top 25 markets<sup>8</sup> or to circumstances where at least four full-power independent

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<sup>7</sup> See Comments of Cedar Rapids Television Company, p. 6; National Broadcasting Company, Inc., pp. 7-9; Local Station Ownership Coalition, pp. 15-16.

<sup>8</sup> See Comments of Westinghouse Broadcasting Company, pp. 28-30.

television voices remain in the market.<sup>9</sup> Such thresholds would preclude duopolies in certain smaller markets where the public interest would be better served than by permitting duopolies in large markets.

In this regard, Northern notes that there are a number of markets, including Fairbanks, where the public has never been able to receive over-the-air a full complement of ABC, CBS and NBC network affiliated stations. Because of their small size and limited economic base, these markets have been unable to support three or more full service television network affiliates. In these instances, the two existing network affiliates often have primary affiliations with two networks and a secondary affiliation with a third network. Essentially the two stations share programming from all three networks. The only way the public in these markets is going to enjoy the very significant benefit of a full complement of ABC, CBS and NBC over-the-air television service is through common ownership and the economies of scale that would result from the operation of two stations with shared overhead and other fixed expenses. At present, these markets are denied such service by the duopoly rule. While it is no certainty that the licensees in these markets would have operated the third network outlet had they been allowed to do so, it is clear that they have been prevented from doing so by an antiquated rule that is so singularly focused on preventing concentration of control that it has precluded basic and fundamental rights of access. Repeal or relaxation of the rule in these markets would serve the public interest by offering expanded television service in the areas of entertainment, news, sports and public affairs of each of ABC, CBS and NBC. The public in these "underserved" markets will be permitted to obtain over-the-air

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<sup>9</sup> See Comments of Media America Corporation, pp. 8-9.

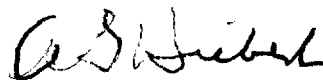
programming that has been available to the vast majority of markets in the country for years.

Northern's concern is that, as the Commission attempts to craft rules for the communications industry for the 21st century, there remain areas of the nation that have not yet experienced the 20th century. It simply would not be in the public interest for those who have been left behind in the past and present not to have their interests considered now and for the future.

Accordingly, Northern urges elimination of the duopoly prohibition for all markets. At a minimum, the Commission should permit an applicant to make a showing that a particular UHF/UHF, UHF/VHF or VHF/VHF combination is in the public interest.

Respectfully submitted,

**NORTHERN TELEVISION, INC.**



By: A.G. Hiebert  
Chairman and Chief Executive Officer

June 29, 1995